



Brazil

Country Reports on Human Rights Practices - [2003](#)

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Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In October 2002, voters elected President Luiz Inacio Lula da Silva ("Lula") of the Workers' Party (PT) to a 4-year term. The elections marked the fourth time since the end of military rule in 1985 that citizens freely chose their president and elected the legislative bodies in accordance with the 1988 Constitution. All parties competed on the basis of fair and equal procedures. The Constitution provides for an independent judiciary; however, it was often inefficient and, especially at the state level, subject to political and economic influences.

The military is responsible for national defense and generally played no role in internal security. The federal police force is very small and primarily investigative; police forces fall primarily under the control of the states: The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order, with a separate judicial system. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The country had a market-based and diversified economy and a population of approximately 177 million. Successive governments have pursued a policy of reducing the traditionally dominant role of government in the economy. They encouraged greater private sector participation through deregulation, privatization, and removal of certain impediments to competition, trade, and investment. Industrial production, including mining operations and a large and diversified capital goods sector, accounted for 39 percent of gross domestic product (GDP), agriculture contributed 9 percent, and services the remainder. Exports consisted of both manufactured and primary goods, ranging from regional airliners to soybeans. High government debt (approximately 58 percent of GDP) was primarily domestically held and complicated fiscal and monetary policymaking. Per capita GDP was approximately \$2,857 during the year and real average wages continued to fall, reflecting low GDP growth (0.3 percent) and unexpected inflationary pressures early in the year. Income distribution remained highly skewed.

The Federal Government generally respected the human rights of its citizens; however, there continued to be numerous serious abuses, and the record of several state governments was poor. State police forces (both civil and military) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police also were implicated in a variety of criminal activities, including killings for hire, death squad executions, extortion, kidnappings for ransom, and narcotics trafficking. Despite new powers to intervene in certain types of human rights cases granted in 2001, the federal police failed to act in the numerous human rights violations by state authorities.

Prison conditions ranged from poor to extremely harsh. Prison officials often tortured and beat inmates. The judiciary had a large case backlog and often was unable to ensure the right to a fair and speedy trial. Justice remained slow and often unreliable, especially in regions where powerful economic interests influenced the local judiciary. Victims, particularly suspected criminals, had difficulty in being heard by oversight bodies. Investigations of human rights abuses by police officials were often limited to internal police reviews and were not referred to the Office of the Public Prosecutor or independent bodies for review. The separate system of military police tribunals remained overloaded, rarely investigated cases thoroughly, seldom convicted abusers, and contributed to a climate of impunity for military and civil police officers involved in extrajudicial killings or abuse of prisoners.

Rural violence, including the killings of land reform and rural labor activists, persisted. Police used excessive force to disperse demonstrators on several occasions, causing serious injuries. Human rights monitors, on occasion, faced threats and harassment. Violence and discrimination against women, and child prostitution and abuse, remained chronic problems. Government authorities often failed adequately to protect indigenous people from

outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas. Discrimination against Afro-Brazilians and violence against homosexuals were serious problems. Forced labor for adults and children continued. Trafficking in persons, particularly women and children for the purpose of prostitution, persisted.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life

There were no reports of political killings; however, extrajudicial killings by state police (military and civil) remained a serious problem throughout the country. Uniformed police summarily executed suspected criminals and then filed false reports that the deceased were resisting arrest.

Statistics released by the Sao Paulo State Secretary for Public Security indicated that Sao Paulo police (civil and military) killed 678 persons during the first 9 months of the year. The actual number was likely higher, because the Public Security Secretariat numbers did not include killings by off-duty police officers. The Security Secretary's figures correspond to an average of 75 civilians killed by police per month in that state, a rate 32 percent higher than in 2002, and the highest figure since statistics on police killings began to be collected in 1995.

In September, the U.N. Special Rapporteur on Summary Executions, Asma Jahangir, visited the country on a 22-day fact-finding mission at the invitation of several human rights groups and the Federal Government. During the visit, government officials (including President Lula) and members of civil society acknowledged the continued problem of extrajudicial executions by law enforcement officials. Moreover, threats to witnesses, human rights defenders, and family members of victims by police were routine. "Death squads" with links to law enforcement officials carried out many of the extrajudicial killings, in some cases with police participation. Jahangir also was concerned that the police investigated themselves in cases of police killing civilians. A government report submitted to Jahangir by National Human Rights Secretary Nilmario Miranda stated that death squads operated in 15 states. Two witnesses who met with Jahangir, Flavio Manoel da Silva and Gerson de Jesus Bispo, were killed after separate meetings with the rapporteur. Da Silva reportedly had information that could identify members of a death squad that terrorized the border region between Paraiba and Pernambuco. Authorities arrested two people for his murder. Bispo, who was killed in Santo Antonio de Jesus in Bahia, was believed to have similar information about death squads in the northeastern region of the country. Authorities arrested two military police officers for his murder. At year's end, neither case had gone to trial.

In September, the nongovernmental organization (NGO) Global Justice delivered a report to the U.N. stating that summary executions by police and death squad activity were still practiced in the country. According to the report, authorities summarily killed 335 people in 24 states since 1997, and no criminal action was sought in 202 of these cases.

According to the police ombudsman in the state of Rio de Janeiro, citizens registered 26 complaints of homicides by police in 2002. Citizen reports of police homicides fell by 30 percent in 2002, but the official statistics were believed to be only a small fraction of the actual police homicides. Amnesty International (AI) reported that police forces killed 917 civilians during the first 9 months of the year, a 36 percent increase over the previous year. The Rio-based Center for Security and Citizenship Studies estimated that Rio state police killed a total of 900 persons in 2002. A 2001 study by the Center showed that Rio de Janeiro state police killed an average of 3.5 civilians per 100,000 persons per year. AI documented evidence that the city's poorest communities were the victims of a violent and discriminatory public policing policy.

According to the Human Rights Commission of the Bahia Legislative Assembly, death squads killed 66 persons in Bahia State from January to August, compared with 302 persons in all of 2002. Many state officials continued to deny the existence of death squads in Bahia. Community leaders and judges claimed that some human rights abusers in Bahia, including state police, continued to enjoy impunity because of an inefficient justice system or official connivance.

According to public security officials, death squads involving the police continued to operate. Human rights groups reported the existence of organized death squads linked to the police forces that targeted suspected criminals and persons considered "undesirable"--such as street children--in almost every state.

The National Secretary for Human Rights established a commission to investigate alleged death squad activity in Guarulhos and Riber o Preto, both large cities in S o Paulo.

In March, the military police internal affairs department in Guarulhos, S o Paulo, opened an investigation into the existence of a police death squad that allegedly targeted troublemaking youths. The group was suspected of killing at least 12 adolescents and attempting to kill 8 others. There were allegations that the group was financed by business persons in Guarulhos, and families of the victims reported home invasions by the police and frequent night patrols of their neighborhoods with the intent to scare them into silence. In September, military policeman Claudio Honorio de Moraes and private security guards Sergio da Silva and Claudio Rodrigues dos Santos were formally accused in the April killing of three adolescents. Authorities held the accused in jail at year's end, and investigators considered the accused to have been active in death squad activities.

In March, in Riber o Preto, a judge denied a state prosecutor's request for a civil action against the state, the city, and the youth detention facility (FEBEM) for culpability in the alleged death squad killings of 88 adolescents between 1995 and 1998.

In the first 9 months of the year, the S o Paulo ombudsman received 664 complaints of police killings, a 31 percent increase over the previous year. In May, authorities arrested 13 military police in Campinas, S o Paulo, and accused them of killing William Douglas Santos and Fabricio Francisco da Conceicao. Witnesses reported seeing the two victims forced into police cars after a shootout. The two men were not seen again until their bodies were anonymously delivered to a hospital. An investigation into the case was completed and submitted to the state prosecutor; however, by year's end, no formal criminal charges were brought against the accused. A police internal affairs investigation was underway at year's end.

The Porto Alegre press reported that in the first 6 months of the year, police in Rio Grande do Sul State killed 22 civilians, compared with 13 during the same period in 2002.

According to a domestic NGO, international human rights observers, and diplomats, killing by police was a national problem, not limited to the largest cities or states.

In March, Judge Alexandre Martins de Castro Filho was shot and killed in Vitoria, Espirito Santo State. Martins was a member of a group investigating alleged police involvement in organized crime and had been threatened since January. Investigators suspected 10 persons of involvement in the killing, including 5 military policemen.

In July, in Porto Alegre, a military police officer shot Gustavo Fernando Burchardt during a high-speed car chase, after Burchardt allegedly cut the cord of a credit card reader in a convenience store. The police originally filed a report that said Burchardt died as a result of a traffic accident during the chase, but one policeman admitted to shooting at Burchardt only after the bullet was found in his body. Police investigators treated the case as a homicide, but no further information was available at year's end.

In August, Chan Kim Chang, a naturalized citizen, was arrested at Rio de Janeiro's international airport for failing to declare the \$30,550 in his possession. While in police custody, Chang was beaten severely and later died. Rio de Janeiro State Secretary for Human Rights, Jo o Luiz Duboc Pinaud, confirmed that police tortured Chang. The case was being investigated as a killing, but no arrests had been made by year's end.

In June, the U.N. Special Rapporteur on Torture noted that torture by jail and prison officials often resulted in death. Harsh prison conditions and prison riots continued to lead to the death of inmates (see Section 1.c.).

Police also killed street children, indigenous people, and labor activists (see Sections 5 and 6.a.). Numerous credible reports indicated the involvement of state police officials in crime, including revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (see Section 1.e.). The authorities' failure to investigate, prosecute, and punish police who committed such acts perpetuated a climate of impunity that encouraged human rights abuses.

No further information was available on the trial of military policeman Guaracy Arede, accused of the 2002 molesting and killing of Alessandra Luisa de Carvalho Marques in Campo Grande, Mato Grosso do Sul.

No further information was available in the arrest of highway patrolman Jose Vargas de Oliveira, accused of killing a truck driver who would not pay a bribe in Campos, S o Paulo, in February 2002.

In Sao Paulo, an internal police and state prosecutor investigation continued into the March 2002 highway deaths of 12 members of the criminal faction and prison gang "First Command of the Capital" (known as the PCC) by the military police organization called "Group for Repression of Crimes of Intolerance" (GRADI).

GRADI officers were accused of other killings, but no homicide charges were brought against them by year's end. All of the officers continued on active duty, with the exception of the former GRADI coordinator, who retired. GRADI was officially dissolved in April, but human rights groups believed that police from this group still operated in a similar, but less official, manner.

There were no new developments in the investigation of Sao Paulo military policemen who allegedly burst into a bar in 2002 in Baixada Santista and killed five adolescents and the bar owner while searching for a youth who stole a sergeant's weapon.

The trial of the anti-kidnapping police investigator accused of killing Jorge Jose Martins in his Campinas, Sao Paulo home in May 2002 was under way at year's end.

There was no new information in the case of Rio de Janeiro taxi driver Sergio Luiz Couto who was killed in February 2002, the day before he was to give a deposition accusing a group of military policemen of kidnapping him and demanding a ransom.

Two mayors in Sergipe State who were indicted in 2002 for ordering the September 2001 killing of labor leader and city councilman Carlos "Gato" Alberto Santos de Oliveira remained free, despite reportedly strong evidence against them.

In Espirito Santo State, the special federal-state task force continued its investigation of the organized crime group involving public officials known as the "Scuderie Le Cocq," for killings and death threats against judges, politicians, and ordinary citizens dating back to the 1960s.

All crimes less serious than intentional homicide committed by uniformed police officers against civilians remained in the military justice system. Long delays allowed many cases to expire due to statutes of limitations (see Section 1.e.).

Sao Paulo civil police internal affairs and the public prosecutor's office reopened the 2001 case in which five civil police killed four individuals suspected of involvement in the killing of the mayor of Caraguatatuba, Sao Paulo. Based on the recommendation of the police ombudsman, a prosecutor investigated the case, which previously had been closed by the police as a case of "resistance followed by death." The investigation continued at year's end.

There were no developments in the case of 85 police officers awaiting trial for their participation in the 1992 Carandiru prison massacre in which 111 prisoners were killed. The murder conviction of retired Colonel Ubiratan Guimaraes for his part in the massacre was still under appeal, and he remained free and continued to serve as an elected state deputy.

There were no additional developments regarding the trials of military policemen Mauricio Miranda and Silvio Ricardo Monteiro Batista. Authorities arrested and detained the two in Guarujá, Sao Paulo, for the October 2002 killings of 17-year-old Anderson do Carmo and 20-year-old Celso Giolelli Malgahaes Junior.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.).

Harsh and life-threatening prison conditions, official negligence, poor sanitary conditions, abuse by guards, and a lack of medical care led to deaths in prisons. Prison homicides, due to both prisoner violence and action by guards during rebellions, continued during the year, but official statistics were unavailable.

In June, in Manaus, Amazonas State, a prison rebellion resulted in the deaths of 12 inmates. According to inmates' testimony, the rebellion began after prison guards killed an inmate. No charges had been filed for the killings by year's end.

In December, in Puraquequara, Amazonas State, a prison rebellion resulted in the deaths of seven inmates. Authorities charged several prison guards with torture.

The criminal trial of Carlos Alberto Xavier do Nascimento, former director of security and discipline of the Andradina

Penitentiary in Sao Paulo State, continued. He was charged with triple homicide in the 2001 asphyxiation deaths of three prison gang members reportedly involved in prison rebellions.

Police killings of street children continued (see Section 5).

There were numerous killings of indigenous people, mostly related to land disputes (see Section 5).

Several labor activists were killed during the year (see Section 6.a.).

Many persons were killed in recent years in conflicts involving disputes over land ownership and usage. The land rights organization known as the "Movement of the Landless" (MST) continued its campaign of invasion and occupation of private and public lands that it wanted the federal and state governments to expropriate for land reform. The MST also continued its occupation of public buildings. MST activists often used confrontational and violent tactics and destroyed private property during some occupations. The Catholic Church's Pastoral Land Commission (CPT), the country's foremost entity monitoring human rights in rural areas, reported that at least 53 rural laborers, landless peasants and indigenous people were killed and 4 threatened with death in land conflicts during the year.

In March, the president of the Rural Workers from Mascatinho Settlement Association, Jose Candido da Silva, also an MST member, was killed in Tamandare, Pernambuco. The crime was still being investigated by the civil police at year's end.

In August, the CPT reported that the courts tried only 6 cases in conjunction with 278 killings of landless, rural workers and rural labor leaders from 1995 to 2002.

In September, security guards shot and killed MST leader Paulo Sergio Brasil and 3 other MST members as they were moving with 100 others to invade the Coquerio Ranch in Foz do Jordao, Parana State. Authorities accused eight guards of homicide and one MST member with attempted homicide.

A police inquiry was concluded in the 2001 police killing of Jose Rafael do Nascimento, founder and leader of the Movement of Rural Workers in Mato Grosso do Sul State. Based on the conclusions of the police inquiry, the State Prosecutor's Office did not charge the policemen.

Also in Mato Grosso do Sul, a police investigation produced neither suspects nor arrests in the 2001 killing of MST leader Valdecir Padilha.

b. Disappearance

There were no reports of politically motivated disappearances.

Police were implicated in kidnappings for ransom. Most observers believed that uniformed and civil police involvement in criminal activity, including kidnapping and extortion, was widespread (see Sections 1.a. and 1.c.).

In May, authorities arrested Sao Paulo civil police narcotics investigators Arnaldo Barbosa Filho and Ricardo Kochi and charged them with kidnapping Jonathan Wink Soligo and Jefferson Santana de Souza. Additionally, the two investigators were charged with extorting \$150,000 (420,000 reais) from Jonathan's father, Erineu Domingo Soligo, an alleged drug trafficker linked to drug kingpin Luiz Fernando da Costa, also known as "Fernandinho Beira-Mar." After Jonathan and Jefferson were freed from the kidnappers, they were immediately arrested for trafficking 50 kilos of cocaine. The public prosecutor filed charges against the two civil policemen, who remained in preventive detention at year's end. An internal investigation resulted in a recommendation that the policemen be fired; however, a final determination had not been made by year's end.

In June, two Sao Paulo civil policemen from the Anti-Kidnapping Division and a military policeman kidnapped a man for cash and a car. One of the civil policemen was fired from the police; there was no information available on any disciplinary action taken against the other two involved.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and a 1997 law prohibit torture and provide severe legal penalties for its use; however, torture by

police and prison guards remained a serious and widespread problem. In June, the Foreign Ministry's Human Rights and Social Issues Department warned that the country risked U.N. sanctions if it did not take action to stop police torture.

In a 2001 report on torture in jails and prisons, then-U.N. Special Rapporteur on Torture Sir Nigel Rodley concluded that torture was still widespread, systematic, and often deadly (see Section 1.a.). Torture was reportedly practiced during every phase of detention: Initial questioning, temporary detention, and long-term detention. Rodley noted that the most common forms of torture were electric shocks, beatings, and threats. Usually the torture victims were poor and uneducated. In June, the U.N. Special Rapporteur on Torture, Theo van Boven, stated that the country still had much work to do to combat torture and corruption. He noted the federal campaign against torture and the torture hot line initiated after Rodley's visit in 2000.

The Government continued its nationwide anti-torture campaign through the National Human Rights Secretariat. The Secretary acknowledged that torture remained a common practice among police to obtain confessions, and among prison guards to exact discipline. The Secretary also stated that police academies administered human rights courses and taught investigative techniques as alternatives to torture.

The NGO National Movement for Human Rights reported during the year that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that the majority of victims were low-income black men. It reported an average of 150 cases per month from October 2001 to June, mostly in remote cities in the interior where low-ranking police were in charge. Using figures provided to Global Justice, AI reported that the Sao Paulo State Public Prosecutor's Office had initiated only 30 prosecutions under the torture law since 1997.

The NGOs Prison Ministries and Christian Association for the Abolition of Torture released information about their research into torture cases in Sao Paulo prisons. Through prison visits between June 2000 and June 2002, the groups recorded 1,631 cases of torture in Sao Paulo prisons, although most prisoners did not report their torturers for fear of reprisals. The groups brought 3,000 cases of torture to the attention of authorities in Sao Paulo's police jails and penitentiaries from 1999 to 2002, and an additional 300 cases during the first half of the year.

In September, the National Human Rights Secretariat published the second "National Report on Human Rights in Brazil," which reported that regulations regarding complaints of torture in Sao Paulo prisons dictated that complaints were to be delivered to the state prison administration and the civil police for investigation. The report noted that authorities usually denied that their officials tortured prisoners or delayed medical evaluations. The report also highlighted regulations requiring victims to report abuses in the presence of the accused, which discouraged complaints.

In February, the internal affairs department of the Sao Paulo civil police concluded its investigation into an alleged "Torture Center" for troublemaking prisoners at the Itaquaquecetuba jail. The internal affairs department did not release its conclusions, but a Sao Paulo newspaper reported that a preliminary report had found that in 2001, at least 13 police departments transferred troublesome prisoners to Itaquaquecetuba, without the requisite judicial orders. According to the press report, prison officials encouraged prisoners at Itaquaquecetuba to beat and torture the transferees.

In March, military police injured at least 5 persons with gunshots, and authorities arrested 2 others when the police forcibly removed approximately 300 land rights activists from a farm in Nova Crixas, Goias State.

In March, police officers seeking a confession allegedly tortured Adenilson Felinto dos Santos, a truck driver suspected of transporting stolen goods, in his home. The National Movement for Human Rights was still investigating the case at year's end.

In April, a court sentenced civil police chief Juarez Francisco Mendonca to 16 years in prison for torturing suspected burglars and car thieves. The court sentenced two of his superiors, Sergio Pedroso Martinera and Valdecir Versa, to 10 years each for their parts in the torture sessions.

In July, a Sao Paulo court began to hear the case against 13 military police accused in the torture of 2 prisoners recruited by GRADI to infiltrate the PCC criminal organization. The State Attorney General asked for an inquiry into the roles of two judges and the State Secretary of Public Security.

In August, the police ombudsman in Parana investigated a case in which mechanic Carlos Ribeiro Morais was tortured for 5 hours by civil police and ordered to confess to a series of robberies. Morais never confessed and was released. He filed a complaint with the police internal affairs department and the Brazilian Bar Association. Morais

reportedly received an apologetic phone call from the governor of Parana; however, no information was available on whether disciplinary action was taken against the police involved.

The police appeared to benefit from a high level of impunity in cases of torture. Often the police themselves were responsible for investigating cases of torture carried out by fellow police officers. The problem remained most pervasive at the state level.

The National Movement for Human Rights, which administers the Ministry of Justice's torture hot line, reported receiving 3,064 calls alleging torture or inhuman or degrading treatment from November 2001 to July. Among metropolitan capitals, Sao Paulo had the highest percentage of complaints. In 78 percent of the calls, the alleged perpetrators were public agents. Actual incidents of torture may have been significantly higher than use of the hot line indicated because ombudsmen, police stations, and state commissions also received complaints.

While agreeing that the hot line was a positive step, human rights activists cautioned that it did not address the core of the mistreatment problem. The activists urged that attorneys, prosecutors, and judges receive training on how to investigate allegations of torture and bring offenders to justice.

Long delays in the special military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (see Section 1.e.).

No new information was available on police investigation in the 2001 torture case of Wander Cosme Carneiro, whom Sao Paulo civil police were accused of torturing while trying to obtain a murder confession.

No new information was available in the case of two alleged cigarette smugglers in Foz do Iguaçu, Parana State, reportedly beaten by two police officers.

Two years after the U.N. Committee on Torture's report was issued, Rio de Janeiro state authorities failed to investigate the 33 cases of alleged human rights violations by Rio de Janeiro police officers contained in the report.

The investigation of the police accused of the July 2002 torturing of Osmarilton Meneses dos Santos in Bahia continued.

Police violence against homosexuals continued. Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. Police routinely extorted money from transvestites and often beat or killed those who failed to cooperate. Several NGOs documented the existence of skinhead, neo-Nazi, and "machista" (homophobic) gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Porto Alegre, Salvador, Belo Horizonte, and Brasilia (see Section 5). In some cases, these gangs allegedly included police officers.

Prison conditions throughout the country ranged from poor to extremely harsh and life threatening. Penal authorities in those states with the largest prison populations often did not separate young offenders from adults and petty offenders from violent criminals. Prison riots were frequent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (see Section 1.a.). The poor working conditions and low pay for prison guards also encouraged corruption.

During the year, Sao Paulo State prison officials replaced 4,500 military police used as guards in state prisons with full-time prison guards responsible only to the Secretary for Prison Administration. All of the new guards reportedly have finished secondary school. Officials also took steps to improve the quality of the new guard force, including instruction in human rights, infectious diseases, drug addiction, and ethics.

Sao Paulo also attempted to improve conditions by building more prisons and creating committees of community leaders to monitor prison conditions. Since December 2002, prison administration officials from four facilities teamed with a group of specialists from the International Centre for Prison Studies to learn about and implement international accords regarding prison standards. The Centre made periodic training and evaluation visits to Sao Paulo. Sao Paulo, like Parana and Rio Grande do Sul, had a prison ombudsman program.

Severe overcrowding in prisons and police detention centers was prevalent and was most critical in the states with the largest prison populations. According to the Ministry of Justice, there were 285,000 prisoners in a system designed to hold 181,000. Construction of penitentiaries continued but was inadequate to alleviate overcrowding.

Overcrowding was an even greater problem in police jails than in penitentiaries. The jails are intended to be temporary holding facilities; however, due to pretrial delays and overcrowding in state penitentiaries, some 72,301 of the 285,000 prisoners resided in local lockups, awaiting either trial or transfer to state penitentiaries. According to the Ministry of Justice, approximately 12,833 persons awaiting trial were incarcerated in Sao Paulo's local police stations. Another 15,350 who had been tried and convicted were awaiting transfer to permanent facilities.

Prisoners also were subjected to extremely unhealthy conditions. Scabies and tuberculosis--diseases uncommon in the general population--were widespread in Sao Paulo prisons, as were HIV/AIDS and even leprosy. In December 2001, the Ministry of Justice estimated that 10 to 20 percent of the national prison population was HIV positive. Denial of first aid and other medical care sometimes was used as a form of punishment. According to the U.N. Committee on Torture's report, prison authorities discriminated against homosexuals and patients with AIDS in prisons and often confined them to separate cells.

In the state of Rio de Janeiro, there were 8,000 persons incarcerated in local police stations and 26,200 incarcerated in state prisons. Both jails and prisons suffered from extreme overcrowding. In September, a jail built for 150 inmates in Niteroi, Rio de Janeiro, held 522. In an attempt to alleviate the overcrowding, state officials temporarily transferred 200 local jail inmates to a state prison. The prison, with a capacity of 350, already held 955 inmates.

In September, the Sao Paulo State judiciary sent a report warning the Governor and the Secretaries of Prison Administration and Public Security about the fragility of the police jail situation. The report noted that some police district and city lockups had surpassed their capacities by 700 percent. It cited numerous cases in which prisoners lacked potable water, slept standing up, breathed polluted air, and encountered blocked sewage lines. For example, the police jail in the Campo Belo neighborhood of Sao Paulo held 192 prisoners in a facility built for 30. In Peruibe, the local jail, which had only 4 cells with an intended capacity for 24 prisoners, held 122 men and 5 adolescents.

Sao Paulo's prison system, both penitentiary and local police jails, held 120,000 prisoners, or 45 percent of the national prison population. In September, the Secretary for Prison Administration told the state assembly that during the year the state prison population had increased at a rate of 1,500 per month.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture pervaded Sao Paulo's juvenile detention centers, known as FEBEM.

In April, the NGO Human Rights Watch delivered a report to the Sao Paulo State Assembly that stated that the FEBEM system abused adolescents and had not taken steps to improve. In June, a state prosecutor for youth reported that there were 7 active cases in the justice system accusing 98 current and former employees of torture. By September, 8 inmates and 1 employee were killed in FEBEM facilities, and 400 people had been injured.

In September, FEBEM fired eight employees for abusing inmates at the Raposo Tavares complex in 2000. The Director of the facility was suspended for 29 days for negligence in the case.

The number of FEBEM inmate rebellions increased during the year, reaching more than 30 by September. Also by September, the Public Prosecutor for Children and Youth had submitted to the state prosecutor's office, police, and FEBEM administration 156 cases of credible incidents of torture in FEBEM units in the city of Sao Paulo, some involving multiple victims.

From January to August, the Franco da Rocha unit of FEBEM experienced 17 riots. A state judge ordered the closure of the facility by the end of the year.

In April, following 3 successive riots and the escape of 121 inmates, FEBEM transferred 247 inmates without judicial orders from the juvenile facility Franco da Rocha to adult provisional detention centers (jails) in the interior of the state. In May, after authorities transferred the inmates back to FEBEM, there was a torture session at Franco da Rocha called the Polish Corridor. Inmates reportedly had to walk a corridor of broken glass barefoot while being beaten by guards. A state attorney for youth reported that 15 families of inmates reported the occurrence separately.

In June, members of the Human Rights Commission of the Brazilian Bar Association and AI found lesions indicating beatings on 30 percent of the FEBEM inmates. Inmates told the visitors that guards changed their torture methods to avoid leaving marks on bodies, such as blows to the abdomen and mock drowning.

There was no further information about a planned Inter-American Commission on Human Rights (IACHR) investigation into systematic human rights abuses in FEBEM. The IACHR acted in response to eight specific cases in which the Sao Paulo State Justice Tribunal had halted investigations into mistreatment of inmates on the grounds that the investigations prejudiced "public security." FEBEM responded that such an investigation would be irrelevant since the facilities in question had been closed.

The states of Rio de Janeiro and Sao Paulo provided separate prison facilities for women. Elsewhere women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors were common. In Rio de Janeiro State, there were only two police districts in which women were held in gender-segregated, short-term jail facilities.

The Ministry of Justice reported that penitentiaries and police jails in Sao Paulo held 6,157 female prisoners in facilities designed to accommodate 2,373 women. In addition, a significantly higher percentage of women than men were held in the severely overcrowded police jails.

Authorities attempted to hold pretrial detainees separately from convicted prisoners; however, due to prison overcrowding, pretrial detention facilities often were also used to hold convicted criminals.

In September, in a Porto Alegre police jail, Luis Carlos Martins Rodrigues was fatally burned in a fire in his cell. The civil police chief in charge of the station was transferred immediately, but there was no further information on the investigation at year's end.

There was no new information in the January 2002 death of convicted kidnapper Fernando Dutra Pinto in the Belem Provisionary Detention Center in Sao Paulo. Reportedly, four guards suspected of torturing Pinto, who subsequently died, were relieved of duty but subsequently transferred to other prisons.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Although there was no official count, numerous prison riots and rebellions occurred during the year. The Sao Paulo Secretary of Prison Administration reported that there were 16 deaths in his system from January to September, compared with 97 during the same period in 2002.

There was no additional information concerning the case of three decapitated inmates at the Praia Grande Jail in Santos, Sao Paulo in 2002.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities. However, Global Justice reported that the level of access to prison facilities varied from state to state. In the case of Sao Paulo, Global Justice found it difficult to gain access.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention and the Government generally observed these prohibitions; however, police continued, at times, to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority.

The federal police force is very small and primarily investigative. It plays little role in routine law enforcement. Police forces fall primarily under the control of the states and are divided into two forces: The "civil police" are plainclothes officers with an investigative role, and the "military police" are uniformed police responsible for maintaining public order. Although the individual state governments control the military police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system.

In early 2002, a special commission responsible for curbing excessive use of police force in Sao Paulo was dissolved. The commission's requirement that police file a detailed lethal-force report after killing a suspect was not always enforced. The Sao Paulo Military Police Department requires police involved in killing a suspect undergo psychological evaluation before returning to normal patrol duties; however, the requirement was not always followed. Also, the police did not always comply with the procedure for assigning a police officer to administrative duties during an investigation into the death of a civilian.

In general, warrants were based on sufficient evidence and issued by a judge. They were not issued in secret; however, the National Movement for Human Rights and Global Justice reported that warrants at times were issued arbitrarily depending on the judge and the region of the country. Global Justice also reported that in Rio de Janeiro and Sao Paulo, many judges issued "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

Human rights observers alleged that civil and uniformed police regularly detained persons illegally to extort money or other favors.

The authorities generally respected the constitutional provision for a judicial determination of the legality of detention, although many convicted inmates were detained beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period. In general, prison authorities allowed detainees prompt access to family members or a lawyer, but there were cases when detainees--typically poor and uneducated--were held longer than the provisional period. Groups that assisted street children claimed that the police sometimes detained youths without judicial orders or held them incommunicado.

In criminal cases, defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period may be extended. In practice, the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants, for all but the most serious crimes, had the right to a bail hearing.

The Constitution prohibits forced exile, and it was not practiced.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Government generally respected this provision in practice; however, the judiciary was inefficient, often subject to political and economic influences--especially at the state level--and lacked adequate resources. Judicial officials were often poorly trained. In many instances, poorer, less educated citizens made limited use of the appeals process that might ensure their right to a fair trial.

The judicial system, with the federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organized their own judicial systems but have to adhere to the basic principles in the Constitution. Specialized courts dealt with police, labor, elections, juveniles, and family matters.

Based on the police investigation that led to the formal charges, prosecutors prepare an indictment for the review of a judge who determines if the indictment met the legal requirements to bring the accused to trial. A jury process tries those accused of capital crimes, including attempted homicide. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They have the further right to appeal state court decisions to both the federal Supreme Court on constitutional grounds and to the federal Superior Court to contest whether a decision was consistent with the decision of a court in another state or infringed on federal law. All defendants sentenced to 20 years in prison or more have the automatic right to a retrial.

Special police courts composed of four ranking state uniformed police officials and one civilian judge have jurisdiction over state uniformed police (except those charged with homicide). Most police accused of crimes appeared before these courts (which are separate from the courts-martial of the armed forces, except for the final appeals court). Within these courts, conviction was the exception rather than the rule. With too few judges, there were severe backlogs, and human rights groups noted a lack of willingness by police to investigate fellow officers. Long delays allowed many cases of torture and lesser charges to expire due to statutes of limitations.

The law provides civilian courts with jurisdiction over cases in which uniformed police officers were accused of homicide (see Section 1.a.). However, except for the most egregious cases, the internal police investigation determined whether the homicide was intentional, while the police tribunal decided whether to forward the case to a civilian court for trial. As a result, the civilian courts received very few case referrals. The average case took 8 years to reach a definitive decision. At the appellate court level, a large backlog of cases hindered the courts' ability to ensure fair and expeditious trials.

There continued to be numerous credible reports of state police officials' involvement in intimidation and killing of

witnesses involved in testifying against police officials (see Section 1.a.).

Defendants are entitled to counsel and must be made fully aware of the charges against them. There is no presumption of innocence. According to the Ministry of Justice, approximately 85 percent of prisoners could not afford an attorney. In such cases, the court must provide one at public expense; the law requires courts to appoint private attorneys to represent poor defendants when public defenders are unavailable; however, often no effective defense was provided.

The right to a fair public trial as provided by law generally was respected in practice, although in some regions--particularly in rural areas--the judiciary generally was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill squatters or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay (see Section 1.a.).

Low pay and exacting competitive examinations that could eliminate as many as 90 percent of the applicants made it difficult to fill vacancies on the bench. The law requires that trials be held within a set period of time from the date of the crime; however, due to the backlog, courts frequently dismissed old cases unheard. This practice reportedly encouraged corrupt judges to delay certain cases purposely so that they could eventually be dismissed. Defense counsel often delayed cases in the hope that an appeals court might render a favorable opinion, and because they were paid according to the amount of time that they spend on a case.

According to the National Movement for Human Rights, courts convicted a much higher percentage of Afro-Brazilian defendants than they did whites (see Section 5).

The July conviction of MST leader Jose Rainha Junior, for the repeat offense of illegally carrying a weapon, was controversial. There were claims that the MST was targeted politically in the sentencing. The presiding judge in the Rainha case received death threats. Rainha was released by year's end.

There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were in effect political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices; however, there were reports that the police conducted searches without a warrant (see Section 1.c.). Wiretaps authorized by judicial authority were permitted.

In February, it was revealed that in past years, Senator Antonio Carlos Magalhaes allegedly ordered the illegal wiretapping of hundreds of individuals and political opponents in his home state of Bahia. As a result, the federal police launched an investigation, and the Bahia state assembly launched an inquiry. Senator Magalhaes had not been charged with wrongdoing at year's end.

The inviolability of private correspondence generally was respected.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution prohibits all forms of censorship and provides for freedom of speech and of the press, and the authorities generally respected these rights in practice; however, there were several attacks against journalists during the year.

Privately owned newspapers, magazines, and a growing number of on-line electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting. Most radio and television stations were owned privately; however, the Government has licensing authority, and politicians frequently obtained licenses. The Liberal Party controlled a national network of radio and television stations. Current or former congressional representatives, some of whom were members of the committee that oversees communications, owned many television and radio stations, as well as local newspapers. The number of media outlets controlled indirectly by politicians was unknown, since concessions often were registered in the names of family members or friends.

Penalties for libel under the 1967 Press Law include imprisonment; however, there were no reports that this penalty was imposed during the year. The National Newspaper Association (ANJ) pressed for an updated press law, noting that the existing law does not establish criteria for calculating maximum fines for libel. The ANJ and newspaper owners throughout the country complained about huge fines and jail terms imposed against newspapers for "moral damage" that appeared aimed at crippling news organizations. The Constitution permits compensation for moral damage but does not specify what constitutes such damages, nor does it specify any limits on fines or penalties.

Electoral campaign laws regulate the broadcast media and apportion the free use of commercial radio and television broadcast time granted to political parties during an election campaign. The short periods for rulings and nonappeal provisions of the regulations are designed to enforce discipline and ensure that remedies are applied in a timely manner. Media and free speech advocates generally accepted the manner in which the campaign laws were enforced.

Foreign publications were distributed widely; prior review of films, plays, and radio and television programming was used only to determine a suitable viewing age.

The annual ANJ report covering the period August 2002 to August cited numerous attempts to block or impede access to information and to intimidate free publication. The ANJ registered five cases of aggression against journalists in the exercise of their profession, five cases of censorship, and three killings of journalists for motives related to their profession.

In July, photographer Luis Antonio da Costa was shot and killed while covering a land invasion by the homeless movement "Sem Teto" at a Volkswagen plant in Sao Bernardo, Sao Paulo. The police arrested the alleged shooter, and an investigation was opened to determine if the shooting was related to the land invasion. Allegedly, the suspect robbed a convenience store just minutes before shooting da Costa and may have thought da Costa was trying to document the crime.

The trial of seven people accused of killing prominent Rio de Janeiro television journalist Tim Lopes in June 2002 was scheduled to begin at year's end.

In September, the trials of two men charged with the 1998 killing of journalist Manoel Leal in Itabuna, Bahia, began.

There were no new developments in the pending trial of police officers Hercules Araujo Agostinho and Celio de Souza for the 2002 killing of Savio Brandao, owner of the Folha do Estado newspaper.

The Government did not impose restrictions on the use of the Internet; however, federal and state police began to monitor the Internet to detect on-line recruitment by sex traffickers (see Section 6.f.) and the activities of hate groups.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Permits are not required for outdoor political or labor meetings, and such meetings occurred frequently.

In August, an attorney from the Brazilian Bar Association's Human Rights Commission alleged that at least 31 homeless activists were beaten by military policemen as the activists disbanded from a land invasion by the "Sem Teto" homeless workers movement in Sao Bernardo, Sao Paulo. The attorney reported that police stopped seven trucks carrying activists away from the invasion and assaulted the activists.

A federal judge barred a protest march by the MST and a counter-march by rural landowners in Rio Grande do Sul. The MST called the action unconstitutional, citing a right granted by the constitution to free movement within the country and the right to assemble peacefully in public. The judge stated that his obligation to preserve societal peace overcame individual constitutional rights.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. In the 2000 census, approximately 74 percent of the population identified themselves as Roman Catholic, and the Government maintained a Concordat with the Vatican; however, there was no official state religion. There were no registration requirements for religions or religious groups, and all faiths were free to establish places of worship, train clergy, and proselytize. The Government controlled entry into indigenous lands and required missionary groups to seek permission from the National Indian Foundation (FUNAI).

Leaders in the Jewish community continued to express concern over the appearance of anti-Semitic material on Internet websites compiled by neo-Nazi and skinhead groups. In September, the Supreme Court upheld a 1996 Rio Grande do Sul State court conviction of editor Siegfried Ellwanger for racism. Ellwanger edited and wrote books considered to be anti-Semitic. The lower court's ruling sentenced Ellwanger to prison for 2 years, but his sentence was converted to community service.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice, although there are restrictions on entry into protected indigenous areas, and a parent is not allowed to leave the country with children under the age of 18 without the permission of the other parent.

A 1997 law provides for the granting of asylum and refugee status to persons who meet the definition in 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The Government provided temporary protection and cooperated with the U.N. High Commission for Refugees and other humanitarian organizations in assisting refugees.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens aged 18 to 70, except for military conscripts who may not vote. It is voluntary for minors from 16 to 18 years of age, for the illiterate, and for those aged 70 and over.

In the October 2002 national elections, PT candidate Lula won a 4-year term with over 61 percent of the vote in the second-round runoff.

The Chamber of Deputies has 513 seats; the Senate has 81 seats. In the 2002 elections, the PT won 91 Chamber seats, but had 90 members in the Chamber by year's end. In the Senate, the PT won 14 seats, but had 13 senators by year's end. The coalition formed by the PT and other parties that support Lula's government numbered approximately 385 deputies in the Chamber.

Women have full political rights under the Constitution and were increasingly active in politics and government. Cultural, institutional, and financial barriers continued to limit women's participation in political life. There were 9 women in the Senate and 45 in the Chamber of Deputies. There were four women in the cabinet and one woman on the Supreme Court. President Lula created a cabinet-level special secretariat for women's issues and another for the promotion of racial equality.

There were six members of minorities in the cabinet and one on the Supreme Court. There were 27 Afro-Brazilians in Congress.

Diverse ethnic and racial groups, including indigenous people, were free to participate politically.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Local and national human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials usually were cooperative and responsive to their

views. Federal and state officials in many cases actively solicited the aid and cooperation of NGOs in addressing human rights problems; however, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, especially members of the state police forces.

The Sao Paulo State Secretary for Prison Administration instructed all prison directors to allow more inspection visits by human rights NGOs.

In April, the U.N. High Commissioner for Human Rights criticized the Government for not answering 10 separate requests for information made in 2002 regarding the killings of and threats against human rights activists in the country. The Federal Government stated that individual states were responsible for answering each case.

In July, the Federal Government established a national coordinator to protect human rights advocates. The first regional offices were planned for Sao Paulo, Para, Tocantins, Pernambuco, Paraiba, and Espirito Santo, and the Federal Police were to provide the protection. The Sao Paulo police ombudsman stated that a Sao Paulo attorney was the first human rights defender to be considered for the protection program. The press reported that the attorney, a member of the Center for the Defense of Human Rights, received threats from the police after she began investigations into illegal arrests, home invasions, torture, and extortion.

In September, the press reported that the IACHR sent an official letter in August, calling on the Government to provide police protection for three human rights activists in Parana who reported on torture in the state's prisons. The three received numerous death threats, but still had not received protection by year's end.

In September, FEBEM initially denied the request of the visiting U.N. Special Rapporteur on Summary Executions, Asma Jahangir, to visit the facility in Bras stating that her visit would be disruptive of daily routine. After press scrutiny, Sao Paulo's Vice Governor authorized the visit. Jahangir noted that FEBEM conditions were horrible but withheld immediate statements on individual inmates for fear that they would suffer reprisals.

The Justice Ministry's National Secretariat of Human Rights administered and sponsored programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous peoples, the elderly, and persons with disabilities.

A number of states have police ombudsmen (see Sections 1.a. and 1.c.). However, some NGOs and human rights observers questioned the independence of some of the ombudsmen. All ombudsmen offices suffered from insufficient resources.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law prohibits discrimination on the basis of sex, race, religion, or nationality; however, discrimination against women, blacks, and indigenous people continued unabated, and there was widespread violence against homosexuals. The law provides prison penalties and fines for racist acts, including use of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimination based on sex, religion, age, or ethnic origin, but there were no known convictions under this law.

A new law to protect the rights of the elderly was adopted during the year. The law makes it a crime to discriminate against, abandon, or to fail to provide emergency assistance to the elderly, and carries a penalty of up to 6 months in jail. The law also makes it illegal for health care providers to base their fees on age and provides welfare payments equivalent to the national minimum wage for people aged 65 or older who do not have the means to support themselves and who are not supported by their families. The statute also requires priority treatment of cases involving the elderly by the judiciary and public housing.

The cities of Sao Paulo and Porto Alegre had police stations that specifically attended to the rights of the elderly. During 2002, the Sao Paulo station counted 300 cases of discrimination against the elderly per month. In 2002, the Sao Paulo State government, in conjunction with NGO and university entities, created the Permanent Forum Against Violence and Abuse of the Elderly.

There continued to be reports of violence against homosexuals, although it was not always clear that the victim's sexual orientation was the reason for the attack. The Gay Group of Bahia, the country's best known homosexual rights organization, and AI documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in cities including Rio de Janeiro, Sao Paulo, Porto Alegre, Salvador, Belo Horizonte, and Brasilia. In some cases, these gangs included police officers (see Section 1.c.). In June, the gay rights group

"Nuances" in Porto Alegre accused neo-Nazi groups of displaying posters in the city that encouraged people to "do away with" homosexuals. Federal prosecutors and the Rio Grande do Sul Commission for Human Rights received the complaint, and police identified eight suspects, but no information on arrests was available at year's end.

In August, the trial of military policemen accused of the 2000 beating death of transvestite Henrique de Souza Lima began in Curitiba, Parana.

In December, Mayor Elcio Berti of Bocaiuva do Sul, Parana State, issued a decree prohibiting homosexuals from living in the town. State prosecutors filed charges against the mayor for violation of state and federal antidiscrimination laws and abuse of administrative power. The charges carry a penalty of 2 to 4 years in prison, but the case had not been tried by year's end.

In the case of the 2000 beating death in Sao Paulo of Edson Neris da Silva--seen holding hands with another man--a court sentenced two alleged gang members to 21 years in prison in 2002. During the year, two others were sentenced to 19 years, one to 3 years, and another to 2 years for various degrees of participation in the crime. Two of the gang members were absolved of the crime, and another 10 awaited trial.

The Secretariat of State Security in Rio de Janeiro, in partnership with NGOs, continued to operate a hot line and professional counseling services for victims of crimes against homosexuals, as well as for complaints of discrimination or other crimes based on race, ethnicity, color, religion, or national origin.

Women

The most pervasive violations of women's rights involved sexual and domestic violence, which were both widespread and underreported. Most major cities and towns had special police offices to deal with such crimes against women; however, reporting crimes and receiving help continued to be a problem for women living in remote areas, sometimes great distances from the nearest special office. For example, the sparsely populated states of Acre and Roraima each had only one such office.

Each state secretariat for public security operated women's stations ("delegacias da mulher"). However, the quality of services provided varied widely, and the availability was especially limited in isolated areas. The stations were intended to provide the following services for victims of domestic violence: Psychological counseling; a shelter for victims of serious abuses who had no place to go; hospital treatment for rape victims, including treatment for HIV and other sexually transmitted diseases; and initiation of criminal cases by investigating and forwarding evidence to the courts. However, according to the Ministry of Justice, many of the women's stations fell far short of standards. There were approximately 307 stations for more than 6,000 municipalities; 40 percent were in Sao Paulo State and 13 percent in Minas Gerais State. There was only one station in the states of Acre, Alagoas, Ceara, and the Federal District of Brasilia. In Rio de Janeiro State, the women's police stations registered 1,364 cases of sexual violence against women during 2002, a 2.4 percent increase over the 1,332 cases in 2001. According to police officials, the statistics for the year were likely to be similar to 2002.

The sentence for rape varied from 8 to 10 years. An offender accused of domestic violence in a case that did not involve a serious offense and carried penalties of less than 1 year's imprisonment could receive alternative sentencing with no jail term. A national study of rape cases carried out by a group of Sao Paulo academics indicated that family members committed roughly 70 percent of rapes.

Spousal rape is illegal; however, men who committed crimes against women, including sexual assault and murder, were unlikely to be brought to trial. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended without a conclusion. The Penal Code allows a convicted rapist to escape punishment if he offers to marry his victim. In May, the World Organization Against Torture reported that only 2 percent of criminal complaints of violence against women led to convictions and that penalties were very light.

Adult prostitution is legal; however, various associated activities, such as operating an establishment of prostitution, are illegal. Women's groups reported that prostitutes encountered discrimination when seeking free medical care.

Trafficking in women for the purpose of prostitution was a serious problem (see Section 6.f.).

Sexual harassment is a criminal offense, punishable by 1 to 2 years in jail. In addition to its application in the

workplace, the law encompasses sexual advances between family members, individuals in educational institutions, and service providers or clients. In the workplace, it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim.

The Constitution prohibits discrimination based on gender in employment or wages and provides for 120 days of paid maternity leave (men are entitled to 1 week). However, the provision against wage discrimination rarely was enforced. The International Labor Organization (ILO) published findings in May that noted that significant differences in wages affected women and blacks, particularly in rural areas.

The Maternity Leave Law prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates; however, some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Employers found violating the law are subject to a jail term ranging from 1 to 2 years, while the company must pay a fine equal to 10 times the salary of its highest-paid employee. At year's end, there was no information on enforcement of this law.

In Rio de Janeiro State, an integrated center for support of female victims of violence or discrimination provided psychological and legal assistance to approximately 190 women per month. Demand for space in municipal women's shelters exceeded capacity.

Children

The Government was committed to children's rights and welfare, but millions of children continued to suffer from the poverty afflicting their families, worked to survive, and failed to get an education. Schooling was free and compulsory between the ages of 7 and 14 and was available in all parts of the country, although not every school had space for every child that wanted to attend. Even in schools that had sufficient resources and space, not all children attended school regularly. The rate of school enrollment of children aged 7 to 14 increased from 89 percent in 1994 to 95 percent in 1999, but there were still 1.1 million children in this age group who did not attend school. Repetition rates and the poor quality of public schools continued to be a problem. Throughout the country, 40 percent of first-graders repeated the year, and in a number of states first-graders were more likely to fail than to pass. Girls and boys attended school in roughly comparable numbers.

Child abuse was widespread. A study conducted during the year by the Federal University of Rio Grande do Sul Center for Studies and Research in Administration found that 87 percent of respondents from the Porto Alegre metropolitan area did not report known child abuse. At the same time, 76 percent of respondents said that they would report abuse if they knew of it. Nearly half of the respondents knew of ongoing cases of child labor.

According to the Reference Center on Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the northern Amazonian region, sexual exploitation of children centered on brothels that catered to mining settlements. In the large urban centers, children, principally girls, who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and even trafficked them outside the country (see Section 6.f.). Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. The report noted that although trafficking developed in part to cater to foreigners, the local population sustained it. In 2000, the ILO reported that observers had cited more than 3,000 girls who were subjected to debt servitude and forced into prostitution in Rondonia State.

In August, authorities arrested five city council members, three businessmen, and one city employee in the Sao Paulo town of Porto Ferreira and charged them with rape, corruption of minors, and conspiracy. Prosecutors also investigated their participation in group sexual activities with girls between the ages of 11 and 16. Allegedly, the girls attended barbecues to obtain food, drugs, and payments of approximately \$11 to \$18 (30 to 50 reais) to perform sexual acts. One councilman admitted involvement, but the others denied the charges. In December, one additional councilman was arrested and charged in the case. The city council closed without action a petition to abrogate the political rights of the five council members initially charged in the case; abrogation of political rights would have removed the five from office and prevented their running for political office for 8 years, but is not a criminal action. The trial was underway at year's end.

The city of Rio de Janeiro, in cooperation with NGOs, operated 57 shelters and group homes for street children, but the shelters reportedly were overcrowded and the staff inadequately trained. Drug use, particularly glue sniffing and crack, was increasingly prevalent among street children. NGOs reported that extreme poverty and sexual

abuse were the principal reasons children left home.

Trafficking in children for the purpose of prostitution was a serious problem (see Section 6.f.).

Child labor was a serious problem (see Section 6.d.).

Police killings of street children continued. In 2001, U.N. High Commissioner for Human Rights Mary Robinson stated that police violence against street children was a major concern. She specifically expressed concern about the kidnapping of street children for adoption and sexual abuse.

Youth were both victims and perpetrators of violence. Of all deaths of 15- to 19-year-olds, 72 percent were due to causes such as homicide, suicide, and traffic accidents; approximately 85 percent of the victims had been sexually exploited. These violent deaths reduced the average life expectancy of men by at least 3 years. Homicide was the leading cause of death for children aged 10 to 14, and only 1.9 percent of their murderers served prison sentences.

Persons with Disabilities

The Constitution contains several provisions for persons with disabilities, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that worked with persons with disabilities reported that state governments failed to meet the legally mandated targets for educational opportunities and work placement. The law stipulates percentages of vacancies that businesses must reserve for persons with disabilities: 2 percent in firms over 100 employees; 3 percent in firms over 300 employees; and 5 percent in firms over 500 employees. Firms that aggressively pursued these percentages could gain an advantage in competing for government contracts.

There was little progress nationwide on eliminating architectural barriers. A 2001 city of Rio de Janeiro law requires multifamily condominiums to make alterations ensuring access to handicapped residents.

In Rio de Janeiro and Sao Paulo, bus companies were required to provide free passes to persons with disabilities. According to a Rio de Janeiro NGO, there was little progress with regard to access to public transportation for persons with disabilities. Of the 32 subway stations in the city of Rio de Janeiro, only 9 accommodated persons in wheelchairs. In September, the Sao Paulo media reported that a young man was forced to abandon his place at a prestigious university because the university was not equipped to handle wheelchairs.

A large public hospital in Sao Paulo was equipped with appropriate machinery to accept telephone appointment requests from the deaf.

Indigenous People

The Constitution grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, in practice, the Government did not secure these rights. The Government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts.

In September, FUNAI reported that the indigenous population was approximately 400,000 persons, belonging to 215 "nations." The report noted many problems faced by indigenous people, including disease and poor health care, loss of native culture, and recurring trespasses and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people had only limited participation in decisions taken by the Government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the Government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders. Illegal mining, logging, and ranching were endemic on indigenous land.

FUNAI was responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI, who in turn appoints the directors of the 52 regions within the organization.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. Reportedly, the Government had completed demarcation of almost all of the total area recognized as indigenous territory. At least 407 of the 600 recognized indigenous areas had reached the final registration stage, 24 were in

the process of demarcation, and 169 had yet to be processed. Identified indigenous territory constituted 12 percent of the national territory. A congressional committee was established specifically to handle Indian Affairs.

The Constitution provides indigenous persons with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands; the Government administers the lands but is obliged to consider the views of the affected communities regarding development or use of the land, and the communities have the right to "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands pending before the Congress since 1995 has never been passed.

Nonindigenous persons illegally exploited many indigenous lands for mining, logging, and agriculture. Nonindigenous persons destroyed the environment and wildlife, spread disease and provoked violent confrontations. FUNAI acknowledged that it did not have the resources to protect indigenous lands from encroachment and depended on the Federal Police--an understaffed and poorly equipped agency--for law enforcement on indigenous lands.

The Indigenous Missionary Council reported that 27 indigenous persons were killed during the year, three times the number killed in all of 2002. The Council alleged that 12 of the killings were motivated by land disputes. FUNAI reported that 23 indigenous persons were killed during the year. Pernambuco was the state with the most killings of indigenous persons. According to FUNAI, land disputes and drug trafficking were the primary reasons for the killings.

The state of Roraima had the largest number of land disputes between indigenous peoples and other state residents. In March, Aldo da Silva, an indigenous person, was killed in Roraima allegedly because of a land dispute.

In January, an unidentified gunman killed Marcus Veron, a prominent leader of a Guarani-Kaiowa Indian nation in Mato Grosso do Sul. His nephew also was killed and many others were beaten in the same incident. Veron had led approximately 350 Guarani in attempts to reclaim land they claimed was stolen from them by ranchers more than 50 years ago. Authorities indicted 27 persons and arrested 14 in connection with the killing.

In June, in Tenente Portela, Rio Grande do Sul, a court convicted Almiro Borges Souza and Roberto Carlos Moraski of the January killing of Leopoldo Crespo, a member of the Caingangue nation. The court sentenced Souza to 14 years in prison and Moraski to 11 years.

In June, in Faxinalzinho, Rio Grande do Sul, Caingangue leader Adilso Cardoso was stabbed and killed. Cardoso led a movement of indigenous people to demand that 15,000 hectares in the area be declared indigenous territory. Following a search of the area, police found 15 knives and had 1 suspect in custody by year's end.

In Mato Grosso and Mato Grosso do Sul, between August and September, members of the Parecis, Caiabis, and Terenas nations took a total of 22 hostages in separate actions to protest the Government's delay in identifying indigenous lands and expelling ranchers. The members also demanded the right to lease large tracts of indigenous lands to nonindigenous ranchers, an act prohibited by law. Among the hostages were employees of FUNAI and employees of ranches that the members claimed were on land already declared indigenous in 2002.

National/Racial/Ethnic Minorities

Although the law prohibits racial discrimination, darker-skinned citizens frequently encountered discrimination.

The U.N. Special Rapporteur on Torture noted that the majority of the victims of torture were of Afro-Brazilian descent (see Section 1.c.). Research by the Institute of Applied Economic Research (IPEA) noted a disproportionately high rate of police killings of Afro-Brazilians. Persons of color were five times more likely to be shot or killed in the course of a law enforcement action than were persons perceived to be white. During the year, the Sao Paulo police ombudsman repeated his 2002 claim that the majority of victims in police killings were young black men from impoverished areas on the periphery of major cities.

The law specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets. The media reported arrests of several persons charged with using racial slurs during the year.

In March, President Lula created a National Secretariat for the Promotion of Racial Equality. Despite a limited budget, the Secretariat was created to defend, among other issues, the racial quota system in public universities and institutions.

A federal government quota system that went into effect in June 2002 requires that at least 20 percent of new federal government hires be Afro-Brazilian, 20 percent women, and 5 percent persons with disabilities. Three state universities instituted race quotas during the year.

During the year, the city of Porto Alegre, Rio Grande do Sul mandated that 12 percent of the positions available in competitive exams for public jobs be reserved for Afro-Brazilians.

IPEA reported that citizens of African descent--constituting approximately 45 percent of the population--represented 60 percent of the poorest segment of society and received 7 percent of the national income. Studies also showed that rates of police torture, court convictions, child labor, illiteracy, and infant mortality were higher among citizens of African descent than among whites.

A hot line operated by the Rio de Janeiro State government to combat racism received 300 accusations of race-based discrimination during 2002, of which 44 were still being investigated at year's end. Sao Paulo's Instituto Geledes maintained a service called SOS Racismo that, between July 2001 and September 2002, received complaints resulting in 19 criminal actions and 7 civil actions for acts of racism.

Education played a role in perpetuating racial disparities. Approximately 60 percent of Afro-Brazilians in the lowest social class had less than 3 years of education, compared with 37 percent of whites.

Some educational institutions and official entities instituted programs to narrow the educational gap between blacks and whites. The Steve Biko Institute, in the city of Salvador, provided extra classes to help 200 Afro-Brazilian students gain admission to universities in Bahia State; approximately 180 students were enrolled in the classes paying tuition of approximately \$38 dollars (105 Reais) per month. At least three nongovernmental projects helped Afro-Brazilians pass university entrance exams in Rio de Janeiro.

In August, the press reported that six skinheads were charged with assault, racism, and spreading nazi propaganda in Porto Alegre. Allegedly, the group assaulted a student with baseball bats and yelled obscenities and racial epithets against Jews, blacks, and homosexuals.

Afro-Brazilian women continued to be particularly disadvantaged by discrimination.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide for union representation of all workers (except members of the military, the uniformed police, and fire fighters) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MLE), which accepts the registration if no objections are filed by other unions. Registration may be contested by other unions that represent workers in the same geographical area and professional category. In the case of such an objection, the MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE does not register the union and union organizers may challenge this decision in the labor courts.

The 1988 Constitution stipulates certain restrictions, such as unicidade (one-per-city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement, as well as the International Confederation of Free Trade Unions (ICFTU), criticized the retention of unicidade.

In practice, a number of competing unions were allowed to exist among the thousands of local unions; however, the MLE and the courts actively enforced the principle of unicidade in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized, but nearly twice this percentage was charged a mandatory union tax and also was covered by collective bargaining agreements (see Section 6.b.). Most informal

sector workers, including self-employed workers and those not formally registered with the Ministry of Labor, fell outside the official union structure. As a result, they did not enjoy union representation and were usually unable to exercise fully their labor rights. The informal sector grew rapidly over the previous decade and accounted for approximately half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

The Ministry of Labor estimated that there were approximately 11,000 unions across the country. Local unions legally may affiliate with state federations and national confederations in their professional category. Although the law makes no provision for central labor organizations that include multiple categories of workers, there were four major centrals: The Workers' Unitary Central (CUT), the Força Sindical (Union Force or FS), the Workers' General Confederation (CGT), and the Social Democratic Union. Labor centrals channeled much of the political activity of the labor movement, organized strikes involving multiple categories, and represented workers in governmental and tripartite councils. Centrals did not have legal standing to represent professional categories of workers in collective bargaining.

The Constitution prohibits government interference in labor unions. Unions and their leadership generally were independent of the Government and of the political parties; however, there were some exceptions. A number of labor leaders also held prominent positions in political parties. Labor organizations often formed alliances with political parties and social movements to advocate for specific issues. The major union federations (centrals) had close relationships with left-of-center political parties and often coordinated actions with party leaders.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem.

The CPT reported that labor leaders were victimized by a campaign of violence in rural areas, with the perpetrators enjoying relative impunity (see Section 1.a.). The CPT reported that five rural labor leaders were killed through the first 8 months of the year.

Para continued to be the state with the most violence directed toward labor leaders. According to leaders of the National Confederation of Agricultural Workers, there was an organized campaign in Para State to kill rural labor leaders. Catholic Church sources reported that 20 activists and rural workers were killed in Para State in 2002, including MST leader Ivo Lindo do Carmo and union official Bartolomeu Moraes de Silva. During the first 8 months of the year, 13 more activists were killed, including union leader Osvaldo Pereira Santos. CPT leaders in Para State continued to claim that gunmen hired by estate owners committed most of these killings. They noted that those who hire gunmen had become more adept at hiding their participation and increasingly targeted labor leaders with significant experience in organizing and leading land appropriations.

In May 2002, a local judge in Rio Maria, Para State, ordered that a trial of two men (including the former mayor) charged with the 1985 killing of Joao Canuto, the first president of the local rural workers' union, should proceed. The trial took place in May, and the men were convicted of ordering the killing and sentenced to 20 years' imprisonment.

The Constitution prohibits the dismissal of employees who are candidates for or holders of union leadership positions. However, the authorities did not effectively enforce laws that protect union members from discrimination. Those who were dismissed often resorted to a lengthy court process for relief. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome. It was estimated that more than 2 million complaints were tied up in the labor court system at year's end. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years. According to the Supreme Labor Court, more than 2 million complaints were registered annually in labor courts.

The Government sought to reduce this backlog and increase the efficiency of the courts. A 2000 law permits cases with relatively low monetary claims to be adjudicated in one meeting with a judge within 30 days of the filing; another law promotes the formation of employee/employer conciliation commissions designed to resolve grievances before they reach the labor courts. Approximately 1,400 such commissions operated, and approximately half of the complaints reaching labor courts could be handled with the expedited procedure. Nonetheless, lengthy delays remained frequent. When ultimately resolved, most parties agreed that cases were decided fairly and on their merits.

Unions and centrals freely affiliated with international trade union organizations; the CUT, FS, and CGT were affiliated with the ICFTU.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right of workers to organize and to engage in collective bargaining. Businesses and unions worked to improve collective bargaining by training negotiators, but many local representatives had not received this training and remained unprepared to represent members effectively in negotiations. The labor justice system, which may set wages and working conditions when negotiations break down and either party appeals to labor courts, continued to weaken collective bargaining. Although such appeals occurred less frequently than a decade ago, the possibility of a better result in labor courts still led to a lack of bargaining in good faith by parties in numerous negotiations.

Collective bargaining was widespread in the formal sector. In the first 10 months of 2002, 17,741 agreements were registered with the Ministry of Labor, compared with 21,963 agreements in all of 2001. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union. Unions typically negotiated with employer associations (also called unions) that represent companies with employees in the same area and occupational category.

A 1995 regulation that ended inflation indexing of wages also allows for mediation of wage settlements with consent of the parties involved and provides greater latitude for collective bargaining. The Ministry of Labor and the federal Labor Prosecutor's Office (MPT) provided free mediation services, and unions and employers also may choose a private mediator from a registry kept by the Ministry of Labor. According to the MLE, in the first 10 months of 2002, more than 8,000 collective bargaining agreements used mediation services, compared with more than 10,000 in all of 2001.

The Constitution provides workers with the right to strike, except for the military, police, and fire fighters. The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable by law if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Failure to end a strike after a labor court decision is punishable by law. The Government generally did not interfere with the right to strike, provided that all laws were obeyed. Employers are prohibited from hiring substitute workers during a legal strike and from firing workers for strike-related activity provided that the strike is not ruled abusive. However, in practice, employers did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process.

The number of strikes diminished in the past several years. During the year, teachers, health workers, port officials, transport workers, stevedores, health-care providers, and metalworkers all engaged in strikes.

The Congress has not passed enabling legislation for labor code provisions permitting strikes in the public sector; however, in practice, the Government seldom interfered with the right of government workers to strike. Numerous public sector unions at the federal, state, and local levels held strikes during the year to demand salary increases, and to protest reform of their pension system. According to the Interunion Department of Socioeconomic Studies and Statistics (DIEESE), the Federal Government had not given a general salary increase to federal employees in 8 years, resulting in a significant erosion of real earnings. Public sector unions that struck during the year included social security workers, professors, judicial workers, and customs agents.

While civil police are allowed to form unions and conduct strikes, uniformed police are prohibited from organizing.

Labor law applies equally in the country's four free trade zones.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children; however, forced labor and trafficking of workers were reported in the majority of states (see Section 6.f.). The practice occurred most commonly in the rural north and central west of the country, in activities such as forest clearing, logging, charcoal production, raising of livestock, and agriculture. Forced labor typically involved young men drawn from the impoverished northeast, but women and children also were engaged in activities such as charcoal production. Children involved in forced labor typically worked alongside their parents. Although indigenous people constituted a small percentage of the overall population, they were especially vulnerable to forced labor schemes when separated from their communities (see Section 5). Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo. According to government officials, Bolivian, Korean, and Chinese laborers were exploited in urban sweatshops under conditions that possibly involved fraud or coercion.

The CPT estimated that approximately 25,000 workers were trapped in forced labor schemes throughout the country, although it acknowledged that the hidden nature of the practice made estimates inexact. Labor

intermediaries ("gatos") trafficked most forced laborers to the remote estates where they worked (see Section 6.f.). At the worksite, laborers were forced to work in brutal conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing. The CPT reported that fleeing workers were killed or beaten to set an example to others at the worksite. Workers were vulnerable to forced labor schemes largely due to existing conditions of dire poverty, low levels of education, and a lack of awareness about their rights. The MLE reported that nearly 80 percent of forced laborers had no official documentation and that most were illiterate.

The Penal Code provides that violators of forced or compulsory labor laws may be sentenced up to 8 years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting, transporting, or obliging workers to incur debt as part of a forced labor scheme (see Section 6.f.). However, the ILO expressed concern that the abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies. The law allows the Government to expropriate lands on which forced labor has been found and to distribute the property in the Government's land reform program; however, these provisions rarely were applied, in part because the Government must compensate landowners for seized lands, sometimes at values that were criticized for being overly generous. Enabling legislation for the constitutional provision allowing confiscation of land on which forced labor is discovered remained under consideration.

Violators of forced labor laws enjoyed virtual impunity. There were only 33 arrests and 3 convictions in 5,000 instances of forced labor uncovered by inspection teams since 1995. Those convicted were freed on appeal or sentenced to do community service. Factors contributing to this record included: Disputes over legal jurisdiction; a lack of a clear definition of forced labor in the Penal Code; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses' fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids. The ILO, ICFTU, Anti-Slavery International, and the Pastoral Land Commission found that the current system did not effectively penalize those who exact forced labor. A complaint was lodged with the Organization of American States against the Government for negligence in investigating forced labor in the Brazil Verde estate. A number of ranchowners and employers, although cited repeatedly for using forced labor schemes, received only token sentences.

The Executive Group to Combat Forced Labor coordinated the Government's efforts to eliminate forced labor; its enforcement arm--the Special Group for Mobile Inspection--had responsibility for locating and liberating workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who accompanied labor inspectors on raids to provide protection. When mobile teams found workers in conditions of forced labor, they levied fines on estate owners and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

During the year, the mobile group located 4,315 forced laborers, nearly double the figure from the previous year. Forced laborers were found during the year in activities including deforestation, logging, mining, raising livestock, and harvesting sugarcane, coffee, cotton, papayas, pepper, and soybeans. In March 2002, the mobile unit found 53 workers toiling in conditions of forced labor on a ranch owned by a leading member of the federal Chamber of Deputies. The MPT forwarded the case to the Attorney General and also filed a civil suit against the politician for damages equaling approximately \$7,143 (20,000 reais) per worker. The case was still pending resolution at year's end.

Despite its efforts, the mobile unit had only a limited impact on the incidence of forced labor. The CPT, whose network of local churches was responsible for the vast majority of complaints reaching the mobile unit, reported that forced labor may actually have grown during the year. In Para State, where the most cases were reported, the CPT received complaints of 4,227 cases of forced labor on 116 ranches, more than 3 times the total for all of 2002. The mobile unit reportedly was unable to keep up with the increase in complaints due to insufficient resources and the cost and time required to mount an operation. The mobile unit encountered resistance from local authorities, including from the local bureaus of the Ministry of Labor, in a number of states.

Poverty and a lack of viable alternatives led many workers repeatedly to fall prey to trafficking and forced labor schemes. In October, the Government moved to end this cycle by instituting a measure that allows workers freed from forced labor schemes to receive three installments of unemployment insurance equal to the minimum wage--approximately \$71 (200 reais) per month--and to be eligible for job training. To educate rural workers about the dangers of forced labor, the CPT ran an informational campaign in which it distributed pamphlets to rural workers in areas targeted by traffickers (see Section 6.f). In some states, local unions registered and tracked workers who left the municipality to work on remote ranches. The National Confederation of Agricultural Workers' radio programs

also educated rural workers about forced labor.

In March 2002, the ILO officially established a program to support governmental efforts to fight forced labor through improved interagency cooperation, strengthened enforcement, heightened public awareness, training for relevant government agencies, and the provision of additional resources to the Government. The ILO program contributed to increased discussion of forced labor through a number of seminars and workshops. It also contributed to improvements in data gathering.

d. Status of Child Labor Practices and Minimum Age for Employment

The law restricts work that may be performed by children; however, despite government efforts, child labor continued to be a widespread problem. The minimum working age is 16 years, and apprenticeships may begin at 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions. However, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18.

The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades. Because the legal working age is 16, the Government sought to increase the number of apprenticeships to provide more opportunities to 14- and 15-year-olds. A 2000 law expands apprenticeship programs by allowing a wider range of enterprises to participate.

According to government figures, the number of working children age 14 and under decreased from 2.97 million in 1999 to 2.22 million in 2002. In addition, the number of working children in this age group decreased from 12 percent 10 years ago to 6.5 percent in 2002. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. The highest incidence of child labor was found in the northeast, where half of all child workers in the country were employed. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

The Ministry of Labor reported that children worked in approximately 100 rural and urban activities. Common rural activities included fishing, mining, raising livestock, producing charcoal, and harvesting sugarcane, sisal, tobacco, cotton, citrus fruits, and a variety of other crops. In urban areas, children worked in shoe shining, transportation, construction, restaurants, street peddling, begging, drug trafficking and prostitution (see Section 5). The ILO estimated that approximately 500,000 children and adolescents worked as domestic servants and that 20 percent of 10- to 14-year-old girls worked as domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The MLE was responsible for inspecting worksites to enforce child labor laws. Special Groups for the Eradication of Child Labor guided regional efforts to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Still, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. During 2002, approximately 3,250 inspectors conducted more than 25,000 inspections that reached workers under 18 years of age. Labor inspectors continued to prioritize inspections in the informal sector to reduce the number of unregistered workers, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$143 (400 reais) per violation. As a result, few employers were actually fined for employing children.

Ministry of Labor inspectors often worked closely with labor prosecutors from the MPT, who have broader powers and are able to impose larger fines. The MPT--an independent government agency responsible for prosecuting labor infractions--has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting. The commission allowed the Ministry of Labor to be more responsive to complaints regarding child labor and to encourage public commitments from officials to address child labor.

The Ministry of Social Security and Assistance coordinated the Government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. This program was the Government's primary effort to end the worst forms of child labor. Because the public school day lasts only 4 hours, PETI emphasized complementary educational activities for children during

nonschool hours as an alternative to working. PETI assisted approximately 900,000 children in all 26 states and the federal capital during the year, focusing on removing children from work activities considered to be among the most hazardous by the Government. Although the program concentrated on rural areas, it also grew rapidly in urban areas.

To prevent child labor and promote education, the Federal Government also continued to expand its Bolsa Escola (School Stipend) program. The program provided mothers of low-income families with stipends of approximately \$5 (15 reais) per child between the ages of 6 and 15, up to a total of 3 children per family. To receive the stipend, the child's monthly school attendance rate must be 85 percent. The Ministry of Education coordinated the Bolsa program, but responsibility for day-to-day management fell largely on municipal governments. At year's end, the program provided stipends to the mothers of approximately 10 million children in more than 5,000 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs, including Belem, Campinas, Belo Horizonte, Manaus, Olinda, and Recife.

In September 2002, in order fully to comply with ILO conventions on the minimum age for work and on the eradication of the worst forms of child labor, the Minister of Labor created the National Commission to Eradicate Child Labor. The commission developed a comprehensive national child labor plan to strengthen child labor eradication efforts, emphasizing partnerships with states and municipalities.

Civil society supported the Government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor--with chapters in every state and more than 40 institutional members from the Government and the private sector--promoted debate and broad analysis of national child labor prevention efforts. The Centers for the Defense of Children and Adolescents also were active in many parts of the country and reported violations of children's rights and implemented eradication programs (see Section 5).

The private sector and unions also played a major role in fighting child labor. The Toy Industry's ABRINQ Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The Foundation also fostered initiatives through its awards programs for organizations, journalists, and mayors. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to help reduce instances of child labor in the footwear industry. All major labor centrals implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research promotion, and the incorporation of income generating schemes and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic services (see Section 5). UNICEF supported more than 200 programs to improve the lives of children and, since 1999, helped to remove more than 13,000 children from work in garbage dumps and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

e. Acceptable Conditions of Work

The Government adjusts the minimum wage annually; in April, it was raised from approximately \$71 to \$85 (from 200 to 240 reais) a month, which was not sufficient to provide a decent standard of living for a worker and family. A 2000 study by the DIEESE concluded that the minimum wage was approximately one-fifth of the salary necessary to support a family of four in the Sao Paulo metropolitan area. The Brazilian Institute of Geography and Statistics estimated that approximately one in three workers earned the minimum wage or less.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also includes a prohibition on excessive overtime and stipulates that hours worked above the weekly limit must be compensated at time and a half pay; these provisions generally were enforced in the formal sector. The law allows employers to compensate workers with time off rather than with overtime pay, provided that the local union agrees.

Unsafe working conditions were prevalent throughout the country. During 2002, workplace accidents rose from nearly 340,000, in 2001, to 387,000. The number of workplace deaths due to accidents also rose from 2,753 in 2001 to 2,898 in 2002. The Ministry of Labor sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry devoted insufficient resources for adequate inspection and enforcement of these standards. Employees or their unions may file claims related to worker safety with regional labor courts, although in practice this was frequently a protracted process. According to the Ministry of Labor, the most dangerous industries in the country were logging, mining (including oil drilling), construction, and

oil refining.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings did occur, and legal recourse usually required years before resolution. The MPT reported during the year that numerous firms used computerized records to compile "black lists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions; however, workers could express such concerns to an internal committee for an immediate investigation.

f. Trafficking in Persons

The law prohibits the transport of persons for illicit reasons within and outside the country; however, trafficking in persons, primarily from and within the country, was a problem.

The Penal Code establishes a prison sentence of 3 to 8 years for transporting women in or out of the country for the purposes of prostitution, but it does not directly address the substantial internal trafficking of women. The Statute on Children and Adolescents requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless the authorities grant prior approval. However, local activists claimed that laws on trafficking for exploitation were open to interpretation and difficult to enforce, especially in relation to domestic trafficking. They called for comprehensive legislation to aid in the prosecution of traffickers.

Laws regarding trafficking for forced labor present similar shortcomings, and activists advocated legislation to define more clearly modern forms of slave labor, such as the use of fraud and debt servitude. A 1998 Penal Code Amendment provides that traffickers may receive a fine and prison sentences of 1 to 3 years, which may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group. Nevertheless, disputes regarding legal jurisdiction contributed to the Government's failure to prosecute labor traffickers effectively.

Laws on forced labor and domestic trafficking were not enforced effectively. Although labor inspectors had identified 5,000 instances of forced labor since 1995--nearly all of which involved traffickers--only 3 persons had been convicted for related crimes. Factors impeding such arrests included: The mobility of labor contractors, lack of training for police officers, and the potential witnesses' fear of reprisal and inability to remain in the area to testify. In most cases, police officers accompanying mobile inspection teams did not conduct investigations, thus hampering prosecutors' efforts to build strong cases. Federal prosecutors and NGOs also reported that corruption among state police often impeded the apprehension of traffickers.

The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads. In a limited number of cases, they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers, and at least one prosecution for such an offense occurred due to a complaint from an NGO (see Section 2.a.).

Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. In addition, most women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions. CECRIA reported that only 10 of the 36 trafficking cases dealt with by federal courts in Rio de Janeiro and Sao Paulo in recent years went to trial, resulting in only 2 convictions. Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. Labor inspectors also found a small number of persons from other countries trafficked to work in urban sweatshops.

CECRIA's June 2002 report on trafficking in persons for commercial sexual exploitation--drawing on police, media, and other sources--identified more than 130 sex trafficking routes, including 109 domestic routes. Domestic routes included: From Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the north and northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region where itinerant workers often transit. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. The report also called attention to sex trafficking in areas with major development projects. Internationally, Spain was the destination of most identified routes (32),

followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7).

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons who fell prey to trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies, or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

Police officials believed that most women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases, women were told that they would work as nannies or domestics. Upon arrival, the victims' passports often were confiscated and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims.

In October, the state of Sao Paulo sponsored an international conference on Trafficking in Women to focus attention on the problem. The conference drew attendees from throughout the country, as well as the United States, Mexico, Chile, and numerous countries in Europe. The conference provided an opportunity for government and NGO representatives to exchange ideas on additional efforts to combat this problem.

In addition to sex trafficking, the internal trafficking of workers into forced labor schemes was a problem. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts. Union leaders claimed that nearly all of the 15,000 persons estimated to be working as forced laborers had been trafficked by labor recruiters. The ILO cooperated with the Government, unions, and the CPT to construct a database for use in recording and combating trafficking.

The Government coordinated several anti-trafficking programs, including public information campaigns, a Ministry of Justice initiative against sexual exploitation, and the inclusion of trafficking as a priority area in the National Plan to Combat Sexual Exploitation of Children (see Section 5).